

Richard S. Busch (SBN 319881)
E-Mail: rbusch@kingballow.com
KING & BALLOW
1999 Avenue of the Stars, Suite 1100
Century City, CA 90067
Telephone: (424) 253-1255
Facsimile: (888) 688-0482

Attorney for Plaintiff
BRENDAN GREAVES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

BRENDAN GREAVES,
Plaintiff,

vs.

DIANE WARREN, individually and as
the representative and administrator of the
1992 DIANE WARREN TRUST,
Defendant.

Case No. 2:18-cv-4986 VAP (SKx)

STIPULATED PROTECTIVE ORDER
[Discovery Document: Referred to
Magistrate Judge Steve Kim]

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it

affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B. GOOD CAUSE STATEMENT

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Such confidential and proprietary materials and information consist of, among other things, confidential business or financial information, information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: this pending federal law suit.

2.2 Challenging Party: a Party or Non-Party that challenges the

1 designation of information or items under this Order.

2 2.3 “CONFIDENTIAL” Information or Items: information (regardless
3 of how it is generated, stored or maintained) or tangible things that qualify
4 for protection under Federal Rule of Civil Procedure 26(c), and as specified
5 above in the Good Cause Statement.

6 2.4 Counsel: Outside Counsel of Record, House Counsel and other
7 attorneys for a Party (as well as their respective support staff).

8 2.5 Designating Party: a Party or Non-Party that designates information
9 or items that it produces in disclosures or in responses to discovery as
10 “CONFIDENTIAL.”

11 2.6 Disclosure or Discovery Material: all items or information,
12 regardless of the medium or manner in which it is generated, stored, or
13 maintained (including, among other things, testimony, transcripts, and
14 tangible things), that are produced or generated in disclosures or responses
15 to discovery in this matter.

16 2.7 Expert: a person with specialized knowledge or experience in a
17 matter pertinent to this litigation who has been retained by a Party or its
18 counsel to serve as an expert witness or as a consultant in this Action.

19 2.8 House Counsel: attorneys who are employees of a party to this
20 Action. House Counsel does not include Outside Counsel of Record or any
21 other outside counsel.

22 2.9 Non-Party: any natural person, partnership, corporation, association,
23 or other legal entity not named as a Party to this Action.

24 2.10 Outside Counsel of Record: attorneys who are not employees of a
25 party to this Action but are retained to represent or advise a party to this
26 Action and have appeared in this Action on behalf of that party or are
27 affiliated with a law firm which has appeared on behalf of that party, and
28 includes support staff.

1 2.11 Party: any party to this Action, including all of its officers, directors,
2 employees, consultants, retained experts, and Outside Counsel of Record
3 (and their support staffs).

4 2.12 Producing Party: any party to this Action, including all of its officers,
5 directors, employees, consultants, retained experts, and Outside Counsel of
6 Record (and their support staffs).

7 2.13 Professional Vendors: persons or entities that provide litigation
8 support services (e.g., photocopying, videotaping, translating, preparing
9 exhibits or demonstrations, and organizing, storing, or retrieving data in any
10 form or medium) and their employees and subcontractors.

11 2.14 Protected Material: any Disclosure or Discovery Material that is
12 designated as “CONFIDENTIAL.”

13 2.15 Receiving Party: a Party that receives Disclosure or Discovery
14 Material from a Producing Party.
15

16 3. SCOPE

17 The protections conferred by this Stipulation and Order cover not only Protected
18 Material (as defined above), but also (1) any information copied or extracted from
19 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
20 Material; and (3) any testimony, conversations, or presentations by Parties or their
21 Counsel that might reveal Protected Material.

22 Any use of Protected Material at trial shall be governed by the orders of the trial
23 judge. This Order does not govern the use of Protected Material at trial.
24

25 4. DURATION

26 Once a case proceeds to trial, all of the information that was designated as
27 confidential or maintained pursuant to this protective order becomes public and will be
28 presumptively available to all members of the public, including the press, unless

1 compelling reasons supported by specific factual findings to proceed otherwise are made
2 to the trial judge in advance of the trial. See Kamakana v. City and County of Honolulu,
3 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for
4 sealing documents produced in discovery from “compelling reasons” standard when
5 merits-related documents are part of court record). Accordingly, the terms of this
6 protective order do not extend beyond the commencement of the trial.

7 8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for
10 Protection. Each Party or Non-Party that designates information or items
11 for protection under this Order must take care to limit any such designation
12 to specific material that qualifies under the appropriate standards. The
13 Designating Party must designate for protection only those parts of
14 material, documents, items, or oral or written communications that qualify
15 so that other portions of the material, documents, items, or communications
16 for which protection is not warranted are not swept unjustifiably within the
17 ambit of this Order.

18 Mass, indiscriminate or routinized designations are prohibited.
19 Designations that are shown to be clearly unjustified or that have been made
20 for an improper purpose (e.g., to unnecessarily encumber the case
21 development process or to impose unnecessary expenses and burdens on
22 other parties) may expose the Designating Party to sanctions.

23 If it comes to a Designating Party’s attention that information or
24 items that it designated for protection do not qualify for protection, that
25 Designating Party must promptly notify all other Parties that it is
26 withdrawing the inapplicable designation.

27 5.2 Manner and Timing of Designations. Except as otherwise provided
28 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as

1 otherwise stipulated or ordered, Disclosure or Discovery Material that
2 qualifies for protection under this Order must be clearly so designated
3 before the material is disclosed or produced.

4 Designation in conformity with this Order requires:

5 (a) for information in documentary form (e.g., paper or electronic
6 documents, but excluding transcripts of depositions or other
7 pretrial or trial proceedings), that the Producing Party affix at a
8 minimum, the legend “CONFIDENTIAL” (hereinafter
9 “CONFIDENTIAL legend”), to each page that contains protected
10 material. If only a portion or portions of the material on a page
11 qualifies for protection, the Producing Party also must clearly
12 identify the protected portion(s) (e.g., by making appropriate
13 markings in the margins).

14 A Party or Non-Party that makes original documents available for
15 inspection need not designate them for protection until after the
16 inspecting Party has indicated which documents it would like copied
17 and produced. During the inspection and before the designation, all
18 of the material made available for inspection shall be deemed
19 “CONFIDENTIAL.” After the inspecting Party has identified the
20 documents that it wants copied and produced, the Producing Party
21 must determine which documents, or portions thereof, qualify for
22 protection under this Order. Then, before producing the specified
23 documents, the Producing Party must affix the “CONFIDENTIAL
24 legend” to each page that contains Protected Material. If only a
25 portion or portions of the material on a page qualifies for protection,
26 the Producing Party also must clearly identify the protected
27 portion(s) (e.g., by making appropriate markings in the margins).

1 (b) for testimony given in depositions that the Designating Party
2 identify the Disclosure or Discovery Material on the record,
3 before the close of the deposition all protected testimony.

4 (c) for information produced in some form other than documentary
5 and for any other tangible items, that the Producing Party affix in
6 a prominent place on the exterior of the container or containers in
7 which the information is stored the legend "CONFIDENTIAL."
8 If only a portion or portions of the information warrants
9 protection, the Producing Party, to the extent practicable, shall
10 identify the protected portion(s).

11 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
12 failure to designate qualified information or items does not, standing alone,
13 waive the Designating Party's right to secure protection under this Order
14 for such material. Upon timely correction of a designation, the Receiving
15 Party must make reasonable efforts to assure that the material is treated in
16 accordance with the provisions of this Order.

17
18 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

19 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
20 designation of confidentiality at any time that is consistent with the Court's
21 Scheduling Order.

22 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
23 resolution process under Local Rule 37.1 et seq.

24 6.3 The burden of persuasion in any such challenge proceeding shall be
25 on the Designating Party. Frivolous challenges, and those made for an
26 improper purpose (e.g., to harass or impose unnecessary expenses and
27 burdens on other parties) may expose the Challenging Party to sanctions.
28 Unless the Designating Party has waived or withdrawn the confidentiality

1 designation, all parties shall continue to afford the material in question the
2 level of protection to which it is entitled under the Producing Party's
3 designation until the Court rules on the challenge.
4

5 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6 7.1 Basic Principles. A Receiving Party may use Protected Material that
7 is disclosed or produced by another Party or by a Non-Party in connection
8 with this Action only for prosecuting, defending, or attempting to settle this
9 Action. Such Protected Material may be disclosed only to the categories of
10 persons and under the conditions described in this Order. When the Action
11 has been terminated, a Receiving Party must comply with the provisions of
12 section 13 below (FINAL DISPOSITION).

13 Protected Material must be stored and maintained by a Receiving
14 Party at a location and in a secure manner that ensures that access is limited
15 to the persons authorized under this Order.

16 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
17 otherwise ordered by the court or permitted in writing by the Designating
18 Party, a Receiving Party may disclose any information or item designated
19 "CONFIDENTIAL" only to:

20 (a) the Receiving Party's Outside Counsel of Record in this Action,
21 as well as employees of said Outside Counsel of Record to whom
22 it is reasonably necessary to disclose the information for this
23 Action;

24 (b) the officers, directors, employees and other representatives
25 (including House Counsel) of the Receiving Party to whom
26 disclosure is reasonably necessary for this Action;

27 (c) experts (as defined in this Order) of the Receiving Party to whom
28 disclosure is reasonably necessary for this Action and who have

1 signed the “Acknowledgment and Agreement to Be Bound”
2 (Exhibit A);

3 (d) the court and its personnel;

4 (e) court reporters and their staff;

5 (f) professional jury or trial consultants, mock jurors, and
6 Professional Vendors to whom disclosure is reasonably necessary
7 for this Action and who have signed the “Acknowledgment and
8 Agreement to Be Bound” (Exhibit A);

9 (g) the author or recipient of a document containing the information
10 or a custodian or other person who otherwise possessed or knew
11 the information;

12 (h) during their depositions, witnesses, and attorneys for witnesses,
13 in the Action to whom disclosure is reasonably necessary
14 provided: (1) the deposing party requests that the witness sign the
15 form attached as Exhibit 1 hereto; and (2) they will not be
16 permitted to keep any confidential information unless they sign
17 the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
18 unless otherwise agreed by the Designating Party or ordered by
19 the court. Pages of transcribed deposition testimony or exhibits to
20 depositions that reveal Protected Material may be separately
21 bound by the court reporter and may not be disclosed to anyone
22 except as permitted under this Stipulated Protective Order; and

23 (i) any mediator or settlement officer, and their supporting
24 personnel, mutually agreed upon by any of the parties engaged in
25 settlement discussions.
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1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
2 PRODUCED IN OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation that
4 compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

- 6 (a) promptly notify in writing the Designating Party. Such
7 notification shall include a copy of the subpoena or court order;
8 (b) promptly notify in writing the party who caused the subpoena or
9 order to issue in the other litigation that some or all of the material
10 covered by the subpoena or order is subject to this Protective
11 Order. Such notification shall include a copy of this Stipulated
12 Protective Order; and
13 (c) cooperate with respect to all reasonable procedures sought to be
14 pursued by the Designating Party whose Protected Material may
15 be affected.

16 If the Designating Party timely seeks a protective order, the Party
17 served with the subpoena or court order shall not produce any
18 information designated in this action as “CONFIDENTIAL” before
19 a determination by the court from which the subpoena or order
20 issued, unless the Party has obtained the Designating Party’s
21 permission. The Designating Party shall bear the burden and expense
22 of seeking protection in that court of its confidential material and
23 nothing in these provisions should be construed as authorizing or
24 encouraging a Receiving Party in this Action to disobey a lawful
25 directive from another court.
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1 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
2 PRODUCED IN THIS LITIGATION

3 (a) The terms of this Order are applicable to information produced by
4 a Non-Party in this Action and designated as
5 “CONFIDENTIAL.” Such information produced by Non-Parties
6 in connection with this litigation is protected by the remedies and
7 relief provided by this Order. Nothing in these provisions should
8 be construed as prohibiting a Non-Party from seeking additional
9 protections.

10 (b) In the event that a Party is required, by a valid discovery request,
11 to produce a Non-Party’s confidential information in its
12 possession, and the Party is subject to an agreement with the Non-
13 Party not to produce the Non-Party’s confidential information,
14 then the Party shall:

15 1) promptly notify in writing the Requesting Party and the
16 Non-Party that some or all of the information requested is
17 subject to a confidentiality agreement with a Non-Party;

18 2) promptly provide the Non-Party with a copy of the
19 Stipulated Protective Order in this Action, the relevant
20 discovery request(s), and a reasonably specific description
21 of the information requested; and

22 3) make the information requested available for inspection by
23 the Non-Party, if requested.

24 (c) If the Non-Party fails to seek a protective order from this court
25 within 14 days of receiving the notice and accompanying
26 information, the Receiving Party may produce the Non-Party’s
27 confidential information responsive to the discovery request. If
28 the Non-Party timely seeks a protective order, the Receiving Party

1 shall not produce any information in its possession or control that
2 is subject to the confidentiality agreement with the Non-Party
3 before a determination by the court. Absent a court order to the
4 contrary, the Non-Party shall bear the burden and expense of
5 seeking protection in this court of its Protected Material.
6

7 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
9 Protected Material to any person or in any circumstance not authorized under this
10 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
11 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
12 all unauthorized copies of the Protected Material, (c) inform the person or persons to
13 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
14 such person or persons to execute the “Acknowledgment and Agreement to Be Bound”
15 that is attached hereto as Exhibit A.
16

17 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
18 PROTECTED MATERIAL

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other protection, the
21 obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure
22 26(b)(5)(B). This provision is not intended to modify whatever procedure may be
23 established in an e-discovery order that provides for production without prior privilege
24 review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach
25 an agreement on the effect of disclosure of a communication or information covered by
26 the attorney-client privilege or work product protection, the parties may incorporate their
27 agreement in the stipulated protective order submitted to the court.
28

1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of
3 any person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this
5 Protective Order no Party agrees to produce documents, items or
6 information within this Protective Order's scope or waives any right it
7 otherwise would have to object to disclosing or producing any information
8 or item on any ground not addressed in this Stipulated Protective Order.
9 Similarly, no Party waives any right to object on any ground to use in
10 evidence of any of the material covered by this Protective Order.

11 12.3 Filing Protected Material. A Party that seeks to file under seal any
12 Protected Material must comply with Civil Local Rule 79-5. Protected
13 Material may only be filed under seal pursuant to a court order authorizing
14 the sealing of the specific Protected Material at issue. If a Party's request to
15 file Protected Material under seal is denied by the court, then the Receiving
16 Party may file the information in the public record unless otherwise
17 instructed by the court.

18
19 13. FINAL DISPOSITION

20 After the final disposition of this Action, as defined in paragraph 4, within 60 days
21 of a written request by the Designating Party, each Receiving Party must return all
22 Protected Material to the Producing Party or destroy such material. As used in this
23 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
24 summaries, and any other format reproducing or capturing any of the Protected Material.
25 Whether the Protected Material is returned or destroyed, the Receiving Party must
26 submit a written certification to the Producing Party (and, if not the same person or
27 entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category,
28 where appropriate) all the Protected Material that was returned or destroyed and

1 (2)affirms that the Receiving Party has not retained any copies, abstracts, compilations,
2 summaries or any other format reproducing or capturing any of the Protected Material.
3 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
4 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
5 correspondence, deposition and trial exhibits, expert reports, attorney work product, and
6 consultant and expert work product, even if such materials contain Protected Material.
7 Any such archival copies that contain or constitute Protected Material remain subject to
8 this Protective Order as set forth in Section 4 (DURATION).

9 Any violation of this Order may be punished by any and all appropriate measures
10 including, without limitation, contempt proceedings and/or monetary sanctions.
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14 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
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16 Dated: December 21, 2018

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19 Honorable Steve Kim

20 United States Magistrate Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its
5 entirety and understand the Stipulated Protective Order that was issued by the United
6 States District Court for the Central District of California on [date] in the case of
7 *Greaves v. Warren*, Case No. 2:18-cv-4986 VAP (SKx). I agree to comply with and to
8 be bound by all the terms of this Stipulated Protective Order and I understand and
9 acknowledge that failure to so comply could expose me to sanctions and punishment in
10 the nature of contempt. I solemnly promise that I will not disclose in any manner any
11 information or item that is subject to this Stipulated Protective Order to any person or
12 entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Central District of California for the purpose of enforcing the terms of this Stipulated
15 Protective Order, even if such enforcement proceedings occur after termination of this
16 action. I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and
18 telephone number] as my California agent for service of process in connection with this
19 action or any proceedings related to enforcement of this Stipulated Protective Order.
20

21 Date: _____

22 City and State where sworn and signed: _____

23 Printed name: _____

24 Signature: _____
25
26
27
28